

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,  
Plaintiff,

v.

ROBERT T. TURNER,  
Defendant.

Case No. 17–CR–40035–JPG

**MEMORANDUM & ORDER**

Before the Court are Defendant Robert T. Turner’s motions for the return of property seized pursuant to a search warrant. (ECF Nos. 58, 59). The Government filed a response. (ECF No. 60).

In 2017, a judge in Illinois’s Second Judicial Circuit Court issued a warrant to search Defendant’s home. (ECF No. 60–2). The investigation was conducted by a joint state-federal task force, (ECF No. 58 at 1), but the seized evidence was “transported to the Illinois State Police/Zone 7 Investigations Evidence Vault,” (ECF No. 60–4 at 3). Defendant now asks the Court to order the Government to return cash and credit cards seized during the search. (ECF Nos. 58, 59).

Federal Rule of Criminal Procedure 41(g)—formerly Rule 41(e)—provides that, “A person aggrieved by an unlawful search and seizure of property or by the deprivation of property may move for the property’s return.” FED. R. CRIM. P. 41(g). However, “Rule 41(g) permits only the recovery of property in the possession of the Government.” United States v. Stevens, 500 F.3d 625, 628 (7th Cir. 2007); see also 3A CHARLES ALAN WRIGHT ET AL., FEDERAL PRACTICE AND PROCEDURE § 690 (4th ed. 2019) (“[A] motion for the return of property must be denied if the government does not possess the property.”); e.g., United States v. Solis, 108 F.3d 722, 722 (7th Cir. 1997) (affirming the denial of a then-Rule 41(e) motion because the Government was not in possession of the property and was thus “not the appropriate party which to request its return”).

Here, the Government is not in possession of the cash and credit cards request by Defendant: The property was seized by the State of Illinois pursuant to a state search warrant and deposited in an Illinois State Police evidence vault. Accordingly, the Court **DENIES** Defendant's motions. (ECF Nos. 58, 59).

**IT IS SO ORDERED.**

**Dated: Monday, November 25, 2019**

**s/J. Phil Gilbert**  
**J. PHIL GILBERT**  
**UNITED STATES DISTRICT JUDGE**